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In the High Court of Judicature for Rajasthan  
Jaipur Bench

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Cr. Msc. Petition No.2124/2007  
Rahul Sharma ***Versus*** Satya Prakash Lodha

**Date of Order    :::    04/12/07**

***Hon'ble Mr. Justice Ajay Rastogi***

Mr. Laxman Madnani, for petitioner

Instant petition U/s 482, CrPC has been filed assailing order dt.04/05/07 in Cr.Case-36/04 whereby Judl. Mag. No.5, Kota rejected application for summoning Bank Officer and relevant documents relating specimen signature in the Bank being maintained of the drawer of the cheque in question and so also a deed duly signed in regard to the loan taken by complainant and the person who has ascribed and attested as witness to the deed; but all of his grievances were turned down alongwith costs of Rs.100/-, which was challenged in Cr.Rev-131/07 but upheld by Special Judge, SC/ST (Prevention of Atrocities Cases) Kota vide order dt.28/09/07.

Petitioner is facing trial for offence U/s 138 of Negotiable Instruments Act. Cheque was dishonoured with endorsement communicated to the complainant as has been observed in the order impugned to the effect that the cheque stood dishonoured for want of sufficient funds and

signature of the drawer whereof did not tally. After statement of complainant was recorded and cross examined, statement of accused U/s 313 CrPC was recorded and ultimately matter has ripen for hearing; at this stage, petitioner filed application U/s 254 CrPC for summoning Bank Officer for verification of specimen signature of drawer and so also deed and person who ascribed it besides attesting witness thereto. Taking note of the plea raised, learned trial Magistrate rejected the prayer U/s 254 CrPC vide order dt.04/05/07 while observing as regards calling of the Bank officer or specimen signature being maintained with the Bank are not relevant in any manner since it has already been intimated to the complainant of the cheque being dishonoured for want of sufficient funds and signature of the drawer did not tally and its effect will be examined at appropriate stage and therefore, did not consider to call up either record or officer of the Bank.

Even on the question put to the Counsel, as to for what good reasons, specimen signature or the Bank officer are required no satisfactory explanation has come forward, apart from it, it has already been communicated by the Banker in an endorsement sent to the complainant while returning the dishonoured cheque for want of sufficient funds besides

signatures over the cheque did not tally with specimen signatures maintained in the Bank record. However, as regard loan document and person who ascribed it and attested it, it has also been observed by learned trial Magistrate in order impugned that it has no reference in regard to the offence for which petitioner is facing trial as it is not a money suit where all the facts are required to be decided in details. Court of Revision also examined submissions and found no merit in the revision petition. This Court has gone through the orders impugned and does not find any infirmity which may call interference in inherent jurisdiction.

Consequently, misc. petition fails and is hereby dismissed alongwith stay petition.

**(Ajay Rastogi), J.**